

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Appropriate Framework for Broadband	)	CC Docket No. 02-33
Access to the Internet over Wireline	)	
Facilities	)	

**Reply Comments of the Public Utility Commission of Texas**

On February 15, 2002, the Federal Communications Commission (Commission) released a *Notice of Proposed Rulemaking (NPRM)* regarding the appropriate statutory classification and regulatory framework for broadband access to the Internet provided over domestic wireline facilities. In this *NPRM*, the FCC sought comment on its tentative conclusion that wireline broadband Internet access services, whether provided over a third party's facilities or self-provisioned facilities, are information services, with a telecommunications component, rather than telecommunication services.

The Public Utility Commission of Texas (Texas PUC) filed comments in this proceeding on April 22, 2002.<sup>1</sup> In these comments, the Texas PUC referenced a rulemaking proceeding that was pending in Texas related to advanced services.<sup>2</sup> At the April 18, 2002 Open Meeting, the Texas PUC adopted new PUC SUBST. R. 26.143, relating to the Provision of Advanced Services in Rural Areas.<sup>3</sup> (See Attachment A for a copy of the Order.) This new provision seeks to promote deployment of advanced services in rural areas of Texas and to promote the Texas PUC's policy to ensure that customers in all regions of the state, including low-income customers and customers in

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<sup>1</sup> The FCC Comments were approved at the April 18, 2002 open meeting and signed by the Commissioners' on April 22, 2002.

<sup>2</sup> See *In the Matter of Appropriate Framework for Broadband Access to the Internet over Wireline Facilities*, CC Docket No. 02-33, Comments of the Public Utility Commission of Texas at 3. (April 22, 2002)

<sup>3</sup> At the time comments were filed with the FCC in this proceeding, the Texas PUC Commissioner's had not approved inclusion of the Advanced Services Rulemaking into its' comments before the FCC. Further, the rule was not effective until May 15, 2002. Thus, the Texas PUC approved inclusion of this rule into the Reply Comments of this proceeding at its' May 23, 2002 Open Meeting.

rural and high cost areas, have access to advanced telecommunications and information services that are reasonably comparable to those services provided in urban areas and that are available at prices reasonably comparable to those prices charged for similar services in urban areas. The Texas rule establishes procedures whereby a retail customer within a rural service area may seek advanced services in order to access the Internet. The approach focuses on a market-based process that allows the rural area and the service provider to develop an appropriate strategy for deployment, including prices, terms, and conditions of service.

The Texas PUC believes the knowledge gained from this rulemaking proceeding provides the FCC with another example of the valuable role states' play in promoting advanced services deployment.

### **CONCLUSION**

We appreciate the opportunity to offer our comments in this proceeding. The Texas PUC believes that ensuring the deployment of broadband services should be a collaborative effort between the Commission and the states, and should remain true to the market opening provisions of the FTA. Further, the Texas PUC believes that it is particularly important that any federal policies adopted as a result of this *NPRM* or other Commission action not hinder progress already made in Texas. In conclusion, the Texas PUC again cautions the Commission that the statutory classification of wireline broadband Internet access service as an information service may have far-reaching implications that could adversely impact today's nascent broadband market.

**Respectfully submitted,**

**Public Utility Commission of Texas  
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**May 23, 2002**

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**REBECCA KLEIN  
Chairman**

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**BRETT A. PERLMAN  
Commissioner**